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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,027	01/24/2007	Urs Burckhardt	127688	8790
27049	7590	12/30/2009		
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
LEONARD, MICHAEL L				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
12/30/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction27049@oliff.com  
jarnstrong@oliff.com

### Office Action Summary

**Application No.**

10/576,027

**Applicant(s)**

BURCKHARDT ET AL.

**Examiner**

MICHAEL LEONARD

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-5, 9, 11-16, 19, 23-24, and 26 are rejected under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent No. 4,853,454 to Merger et al. for the reasons set forth in the last Office action.

Claims 6-8 and 10 are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 4,853,454 to Merger et al., in view of U.S. Patent No. 3,935,274 to Jacobsen et al. for the reasons set forth in the last Office action.

Claims 17-18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 4,853,454 to Merger et al., in view of U.S. Patent No. 5,116,931 to Reisch et al.

Claims 20-22 are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent No. 4,853,454 to Merger et al. in view of U.S. Patent No. 5,194,488 to Piester et al.

### ***Response to Arguments***

Applicant's arguments filed 09/24/2009 have been fully considered but they are not persuasive.

The applicants' argued that the primary reference to Merger fails to disclose a two-component system wherein water and the polyaldimine components are present together. The examiner respectfully disagrees because Merger discloses all of the components of the composition; the polyurethane prepolymer (a) and a polyaldimine (b) component, which is the same component as presented in the claims and the water

component. Merger further discloses that molded articles can be prepared by mixing this single component polyurethane system with water and then placing the mixture into a mold (Column 4, lines 40-45). A person of ordinary skill in the art from the disclosure of Merger would arrive at the claimed composition whenever water is added to the composition. Simply separating the components into two different components is not necessary to arrive at the claimed composition. The Merger reference discloses all of the claimed components of the composition and thus the composition is inherent based on the disclosure of Merger.

In regards to the applicants' arguments over the claimed aldehydes; the examiner would like to point out that the problem of unpleasant odor generation was not a claimed feature and thus was not looked at in the prior art. The secondary reference was brought in to show that the time of the invention to make the instantly claimed aldehydes and ultimately the polyaldimines of the instant claims because this is a known means for adding carboxylate to hydroxy functional aldehydes made from isobutylaldehyde and formaldehyde as taught by Jacobson (Abstract, Column 1, lines 5-43) and it is within the ability of the ordinary skilled artisan to make the above discussed aldehydes by appropriately changing the acid to one needed in the above discussed aldehydes. If the applicants' disagree with this, then some showing of unexpected results, pertaining to the unpleasant odor that would allow the examiner to retract this rejection is deemed necessary.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MICHAEL LEONARD** whose telephone number is (571)270-7450. The examiner can normally be reached on Mon-Fri 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MICHAEL LEONARD/  
Examiner, Art Unit 1796

/Milton I. Cano/  
Supervisory Patent Examiner, Art Unit 1796